

FILED

Dieter C. Dammeier SBN 188759  
Michael A. McGill, Esq. SBN 231613  
Rana M. Kavar, Esq. SBN 244341  
Carolina Veronica Diaz SBN 263301  
LACKIE, DAMMEIER & MCGILL APC  
367 North Second Avenue  
Upland, California 91786  
Telephone: (909) 985-4003  
Facsimile: (909) 985-3299

10 MAR 25 PM 3:48

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY: \_\_\_\_\_

Attorneys for Plaintiff  
MICHAEL PROVIDENTE

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MICHAEL PROVIDENTE,

Plaintiff,

vs.

KEN WELDON, individually and in  
his capacity as Chief of Police; TOM  
ARMSTRONG, individually and in  
his capacity as the Assistant Chief of  
Police; STEVE SCHUSTER,  
individually and in his capacity as a  
Police Captain; CRAIG SPERRY,  
individually and in his capacity as a  
Police Captain; SANTOS  
HERNANDEZ, individually and in  
his capacity as a Police Lieutenant;  
MARTY PENNEY, individually and  
in his capacity as a Police  
Lieutenant; Lieutenant ROBERT  
ROACH, , individually and in his  
capacity as a Police Lieutenant and  
ROES 1 THROUGH 10  
INCLUSIVE;

Defendants

CASE NO.:

**CV 10-02200 -DMG(RZ)**

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE AND DECLARATORY  
RELIEF BASED ON:**

1. Ralph Act, Cal. Civ. Cd. §51.7
2. Bane Act, Cal. Civil Code §52.1
3. Union Busting, Govt. Cd. §§3302 *et. seq.*
4. Cal. Const., Article I, §§2, 3
5. Americans with Disabilities Act, §42 U.S.C. 1201 *et. seq.*
6. Civil Rights, 42 U.S.C. §1983

**DEMAND FOR JURY TRIAL**  
F.R. Civ. P. Rule 38  
C.D. Cal. Local Rule 38-1

1 COMES NOW, MICHAEL PROVIDENTE, who demands a jury trial and  
2 seeks monetary compensation and injunctive relief against DEFENDANTS on  
3 each of the following causes of action.

## 4 5 I. PREFATORY

6 1. This is an action for damages and injunctive relief for violations of  
7 Michael Providente's civil rights pursuant to 42 U.S.C. §1983, state labor and civil  
8 code violations, unlawful termination, retaliation, and disability discrimination  
9 under both state and federal law. See Cal. Govt. Code §12940 *et seq.*; 42 USC §§  
10 12101-12214, 29 USC §§ 793, 794, Executive Order 11246 Defendants, who  
11 include his former employer and high-ranking City officials, unlawfully retaliated  
12 and took myriad adverse actions against Plaintiff solely because Plaintiff lawfully  
13 exercised his individual civil rights and liberties of free expression and association,  
14 his exercise of lawful labor organizational, social and political activities, and his  
15 opposition to systemic police corruption and for asserting his rights as someone  
16 with a disability and medical condition.  
17

## 18 19 II. JURISDICTION AND VENUE

20 2. Plaintiff's action is authorized by 42 U.S.C. §1983, which provides  
21 for redress for the deprivation under color of state law of rights secured by the  
22 Constitution and the laws of the United States. Jurisdiction is conferred on this  
23 Court by 28 U.S.C. §1343(3) which provides for jurisdiction in this Court of suits  
24 authorized by 42 U.S.C. §1983 to redress the deprivation under color of state law  
25 of any right, privilege, or immunity secured by the Constitution of the United  
26 States and also by 28 U.S.C. §1343(4) which provides for protection of civil rights.

27 3. Federal supplemental jurisdiction over the state law claims is  
28 conferred by 28 U.S.C. §1367.

4. This Court has authority to provide declaratory and injunctive relief in this case pursuant to 28 U.S.C. §§2201 and 2202.

5. Venue is proper in the Central District of California because the wrongs alleged herein occurred within City of El Monte, County of Los Angeles, located in the Central District.

### III. PARTIES

6. Plaintiff was, at all times relevant to the allegations contained herein, a resident of Los Angeles County, State of California. Plaintiff's home address is confidential under Cal. Penal Code §§146(e) and 832.7, and Cal. Vehicle Code §1808.4(a)(11).

7. Plaintiff, at all times relevant to the allegations contained herein, was employed by CITY OF EL MONTE (“CITY”) for approximately thirteen years as a peace officer with the El Monte Police DEPARTMENT (“DEPARTMENT”). The individual named DEFENDANTS all are employed by the CITY and have ALL acted both- individually and within the course and scope of his employment, and as an official policy-maker for CITY.

8. Plaintiff has also served as a member of the El Monte Police Officers' Association ("EMPOA").

9. The CITY is a duly enacted municipality organized and existing under the laws of the State of California and wholly situated in the County of Los Angeles. DEPARTMENT is an operating Department, Agency, and/or Office of CITY.

10. Defendant KEN WELDON (“WELDON”) was, at all times relevant to the allegations contained herein, employed by CITY as the Chief of Police for the DEPARTMENT. In doing the things alleged herein, WELDON acted under color of state law, within the course and scope of his employment, and as an

1 official policy-maker for CITY. As a CITY department Head, Manager and/or  
2 Supervisor, WELDON has and is vested with policy-making authority over actions  
3 such as the ones at issue herein.

4 11. Upon information and belief, WELDON is and was at all times  
5 relevant to the allegations contained herein a resident of Los Angeles County.

6 12. WELDON, who at all relevant times mentioned herein, acted  
7 intentionally, wantonly and maliciously, and is being sued individually.

8 13. Defendant TOM ARMSTRONG ("ARMSTRONG") was, at all times  
9 relevant to the allegations contained herein, employed by CITY as the Assistant  
10 Chief of Police for DEPARTMENT. In doing the things alleged herein,  
11 ARMSTRONG acted under color of state law, within the course and scope of his  
12 employment, and as an official policy-maker for CITY. As a CITY department  
13 Head, Manager and/or Supervisor, ARMSTRONG has and is vested with policy-  
14 making authority over actions such as the ones at issue herein.

15 14. Upon information and belief, ARMSTRONG is and was at all times  
16 relevant to the allegations contained herein a resident of Los Angeles County.

17 15. ARMSTRONG, who at all relevant times mentioned herein, acted  
18 intentionally, wantonly and maliciously, and is being sued individually.

19 16. Defendant STEVE SCHUSTER ("SCHUSTER") was, at all times  
20 relevant to the allegations contained herein, employed by CITY as a Police Captain  
21 for DEPARTMENT. In doing the things alleged herein, SCHUSTER acted under  
22 color of state law, within the course and scope of his employment, and as an  
23 official policy-maker for CITY. As a CITY department Head, Manager and/or  
24 Supervisor, SCHUSTER has and is vested with policy-making authority over  
25 actions such as the ones at issue herein.

26 17. Upon information and belief, SCHUSTER is and was at all times  
27 relevant to the allegations contained herein a resident of Los Angeles County.  
28



1           18. SCHUSTER, who at all relevant times mentioned herein, acted  
2 intentionally, wantonly and maliciously, and is being sued individually.

3           19. Defendant CRAIG SPERRY ("SPERRY") was, at all times relevant  
4 to the allegations contained herein, employed by CITY as a Police Captain for the  
5 DEPARTMENT. In doing the things alleged herein, SPERRY acted under color  
6 of state law, within the course and scope of his employment, and as an official  
7 policy-maker for CITY. As a CITY department Head, Manager and/or Supervisor,  
8 SPERRY has and is vested with policy-making authority over actions such as the  
9 ones at issue herein.

10           20. Upon information and belief, SPERRY is and was at all times relevant  
11 to the allegations contained herein a resident of Los Angeles County.

12           21. SPERRY, who at all relevant times mentioned herein, acted  
13 intentionally, wantonly and maliciously, and is being sued individually.

14           22. Defendant SANTOS HERNANDEZ ("HERNANDEZ") was, at all  
15 times relevant to the allegations contained herein, employed by CITY as a Police  
16 Lieutenant and held other ranks for the DEPARTMENT. In doing the things  
17 alleged herein, HERNANDEZ acted under color of state law, within the course  
18 and scope of his employment, and as an official policy-maker for CITY. As a City  
19 department Head, Manager and/or Supervisor, HERNANDEZ has and is vested  
20 with policy-making authority over actions such as the ones at issue herein.

21           23. Upon information and belief, HERNANDEZ is and was at all times  
22 relevant to the allegations contained herein a resident of Los Angeles County.

23           24. HERNANDEZ, who at all relevant times mentioned herein, acted  
24 intentionally, wantonly and maliciously, and is being sued individually.

25           25. Defendant MARTY PENNEY ("PENNEY") was, at all times relevant  
26 to the allegations contained herein, employed by CITY as a Police Lieutenant and  
27 held other ranks for the DEPARTMENT. In doing the things alleged herein,  
28

1 PENNEY acted under color of state law, within the course and scope of his  
2 employment, and as an official policy-maker for CITY. As a CITY department  
3 Head, Manager and/or Supervisor, PENNEY has and is vested with policy-making  
4 authority over actions such as the ones at issue herein.

5 26. Upon information and belief, PENNEY is and was at all times  
6 relevant to the allegations contained herein a resident of Los Angeles County.

7 27. PENNEY, who at all relevant times mentioned herein, acted  
8 intentionally, wantonly and maliciously, and is being sued individually.

9 28. Defendant ROBERT ROACH ("ROACH") was, at all times relevant  
10 to the allegations contained herein, employed by CITY as a Police Lieutenant and  
11 held other ranks for the DEPARTMENT. In doing the things alleged to have been  
12 done herein, ROACH acted under color of state law, within the course and scope  
13 of his employment, and as an official policy-maker for CITY. As a City  
14 DEPARTMENT Head, Manager and/or Supervisor, ROACH has and is vested  
15 with policy-making authority over actions such as the ones at issue herein.  
16

17 29. Upon information and belief, ROACH is and was at all times relevant  
18 to the allegations contained herein a resident of Los Angeles County.

19 30. ROACH, who at all relevant times mentioned herein, acted  
20 intentionally, wantonly and maliciously, and is being sued individually.

21 31. Defendant DAN BUEHLER ("BUEHLER") was, at all times relevant  
22 to the allegations contained herein, employed by CITY as a Police Lieutenant and  
23 held other ranks for the DEPARTMENT. In doing the things alleged to have been  
24 done herein, BUEHLER acted under color of state law, within the course and  
25 scope of his employment, and as an official policy-maker for CITY. As a City  
26 DEPARTMENT Head, Manager and/or Supervisor, BUEHLER has and is vested  
27 with policy-making authority over actions such as the ones at issue herein.  
28

1       32. Upon information and belief, BUEHLER is and was at all times  
2 relevant to the allegations contained herein a resident of Los Angeles County.

3       33. BUEHLER, who at all relevant times mentioned herein, acted  
4 intentionally, wantonly and maliciously, and is being sued individually.

5       34. Defendants ROES 1 through 10 are unknown or unidentified at this  
6 time. Upon information and belief, each Doe is in some manner responsible for  
7 the wrongs alleged herein, and each such Defendant advised, encouraged,  
8 participated in, ratified, directed, or conspired to do the wrongful acts alleged  
9 herein. When the true names and capacities of said Defendants become known to  
10 Plaintiff, Plaintiff will seek relief to amend this Complaint to show the true  
11 identities of each said DOE in place of their fictitious names as DOES 1 through  
12 10 respectfully.

13       35. Upon information and belief, at all times mentioned herein,  
14 Defendants, and each of them, was the agent, employee and servant the CITY of  
15 EL MONTE/ THE DEPARTMENT, and every other Defendant and each  
16 Defendant alleged herein acted in the course and scope of said agency, service and  
17 employment at all relevant times.  
18

#### 19 20               **IV. INFORMATION COMMON TO ALL COUNTS**

21       36. CITY hired Plaintiff as a peace officer in or about November 1995.

22       37. Plaintiff had been a long-standing member of the EMPOA and had  
23 worked to address labor, organizational and political concerns for same.

24       38. Since at least 1997 or 1998, CITY has engaged in repeated unlawful  
25 actions, including, but not limited to, the following: DEPARTMENT'S long-  
26 standing policy and practice of "shutting-down" graveyard and early morning  
27 shifts and not actively engaging in active law enforcement activity. In fact, in or  
28 around 1997 or 1998, HERNANDEZ scolded Plaintiff and another officer for

1 enforcing the law when they conducted a traffic stop in front of 11103 Garvey  
2 Avenue at the *On the Spot Sporting Goods* store between 3:30 a.m. and 4:00 a.m.  
3 HERNANDEZ informed Plaintiff that he and other officers were trying to “Get  
4 some sleep,” and Plaintiff’s actions interfered with same.

5 39. During the summer of 2000, Plaintiff and other police officers  
6 responded to a party-disturbance call at 4005 Eunice St. Plaintiff pursued and  
7 arrested a subject for violation of Cal. Penal Code §§647(f) and 148(a). The  
8 subject was taken to Greater El Monte Hospital for treatment of his injuries.  
9 HERNANDEZ subsequently arrived at the hospital and told Plaintiff not to pursue  
10 arrest charges against the subject. Plaintiff denied the request. HERNANDEZ told  
11 Plaintiff that the subject was a personal acquaintance of his and a police  
12 informant. Plaintiff still refused to grant HERNANDEZ’ request. HERNANDEZ  
13 was visibly upset by this and warned Plaintiff that he (HERNANDEZ) would  
14 never forget Plaintiff’s refusal of his request nor Plaintiff’s lack of ability to  
15 cooperate with his (Hernandez’) unlawful request.

16 40. In or around 2001-2003, Plaintiff had a consensual dating relationship  
17 with ARMSTRONG’S daughter, a City dispatcher, which lasted for several  
18 months. Upon information and belief, ARMSTRONG has targeted and caused to  
19 be disciplined, harassed or terminated most DEPARTMENT officers who had had  
20 consensual dating relationships with his daughter, including Plaintiff.

21 41. On or about April 1, 2006, DEPARTMENT administrators advised  
22 the officers that there would be an upcoming special election seeking passage of  
23 “Measure P” to address CITY’S sudden discovery of an alleged approximate nine  
24 million dollar deficit. Administrators attended briefings, warned of lay-offs,  
25 strongly encouraged officers to actively push for the measure’s success and utilized  
26 CITY resources to aggressively campaign in support of “Measure P.”  
27  
28



1           42. On or about April 13, 2006, while Plaintiff was serving as a Watch  
2 Commander, Plaintiff received a report that a fifteen-year old had been allegedly  
3 sexually assaulted by a CITY peace officer. Plaintiff spoke with the Reporting  
4 Party, the victim's grandmother. Plaintiff learned that the suspect was not a sworn  
5 police officer but was a 20-year civilian employee who worked in the Community  
6 Relations Office substation. Plaintiff contacted PENNEY, one of the employee's  
7 supervisors. PENNEY told Plaintiff, "I need you to handle this one for me buddy,"  
8 and "tell her whatever you have to, to make her happy and go away" and "tell her  
9 that [the employee] will not be around her granddaughter or any other kids, we are  
10 trying to get him to resign." PENNEY informed there was a similar sex-related  
11 complaint currently pending against the employee and it would "look bad" if it  
12 appeared that CITY was attempting to "kiss off" the two separate complaints.

13           43. Upon information and belief, the suspect-employee was a long-time  
14 close and personal friends with both WELDON and PENNEY.

15           44. Plaintiff interviewed both the grandmother and fifteen year-old soon  
16 after receiving the report. The victim reported that the sexual abuse occurred while  
17 the suspect employee supervised her when she performed community service; she  
18 claimed that the suspect employee had shown her pornography and touched her  
19 buttocks. She advised that another sixteen year-old who was also assigned  
20 community service might also have been sexually abused by the suspect employee  
21 and that there might be other victims. Soon after the interview, Plaintiff generated  
22 a Misconduct Complaint Memorandum and caused a Crime Report (#06CR-5143)  
23 to be generated. Plaintiff was subsequently informed that that the allegations in his  
24 Crime Report were consistent with statements obtained during an administrative  
25 investigation that occurred earlier that evening. Plaintiff forwarded a copy of the  
26 Crime Report and audiotape of the interview he had conducted of the reporting  
27  
28

1 party and the victim with the Memorandum to SPERRY via interdepartmental  
2 mail. Plaintiff also notified ARMSTRONG of the incident.

3 45. On or about April 17, 2006, SPERRY contacted Plaintiff at home and  
4 demanded Plaintiff explain why he had not been notified about the crime report  
5 earlier. Plaintiff explained that he notified ARMSTRONG directly because it was  
6 an Internal Affairs matter. SCHUSTER then got on the telephone and demanded  
7 to know why Plaintiff had not handled the incident the way PENNEY had  
8 instructed. Plaintiff told SCHUSTER that he did not believe PENNEY'S  
9 instructions were appropriate. SCHUSTER then angrily replied, "Why didn't you  
10 just give them a complaint packet and leave?" Plaintiff informed SCHUSTER that  
11 he had left a complaint packet with the victim after he concluded his interview.

12 46. On or about May 5, 2006, during an EMPOA membership meeting,  
13 Plaintiff openly protested against using EMPOA funds to support "Measure P."

14 47. On or about June 1, 2006, Detective Larry Fry, who was on-duty in an  
15 unmarked police vehicle, went to Plaintiff's residence and asked why Plaintiff had  
16 removed the bright-yellow "Measure P" lawn signs from Plaintiff's front and back  
17 yards. Plaintiff informed him that the signs had been placed there without his  
18 permission. Fry said, "What am I supposed to tell the Chief? He is going to be  
19 pissed because he knew the signs were there."

20 48. On or about June 6, 2006 "Measure P" was defeated at the election.  
21 CITY management and DEPARTMENT administrators continued to warn that  
22 major cutbacks and possible lay-offs were likely, however no such cutbacks or  
23 layoffs actually occurred.

24 49. On or about July 1, 2006, Plaintiff, on behalf of EMPOA, helped  
25 acquire the services of Harvey Rose and Associates to conduct an audit of CITY'S  
26 budget and finances. CITY was reluctant to provide necessary documents for the  
27  
28

1 audit and caused multiple delays. The audit finally commenced when CITY finally  
2 turned over the information.

3 50. On or about September 26, 2006, Plaintiff met with ARMSTRONG.  
4 Plaintiff reported, *inter alia*, that: a) Lieutenant Robert ROACH had committed  
5 POBR violations during Internal Affairs investigations of EMPOA members; b)  
6 Hernandez, who was by then a DEPARTMENT Lieutenant, had, *inter alia*,  
7 improperly initiated baseless Internal Affairs complaints against EMPOA  
8 members, especially when the members had some involvement with  
9 Hernandez' personal acquaintances; c) HERNANDEZ had acted unlawfully  
10 during the "Measure P" campaign against citizens which led to improper citizen  
11 arrests during the campaign period and ultimately an investigation of the  
12 DEPARTMENT by the Public Integrity Unit of the Los Angeles County District  
13 Attorneys Office; and d) he believed that the case against the civilian employee  
14 suspected of sexual abuse was being covered up the DEPARTMENT and that  
15 Plaintiff had received information that at least one, perhaps more Lieutenants,  
16 including PENNEY and HERNANDEZ, had made a directive that charges not be  
17 pursued.  
18

19 51. During the aforementioned conversation, ARMSTRONG told  
20 Plaintiff, "Perhaps the message got lost when we promoted you. Although you are  
21 a technically sound supervisor, you were expected to be more of an extension of  
22 management." Plaintiff told ARMSTRONG that he would be seeking a position  
23 on the EMPOA board in order to, *inter alia*, make the DEPARTMENT more  
24 accountable for its actions. Armstrong told Plaintiff he would notify WELDON of  
25 their conference and Plaintiff's reports of myriad wrongdoing.

26 52. On or about September 29, 2006, Plaintiff met with WELDON and  
27 ARMSTRONG. WELDON told Plaintiff, "If I were twenty years younger we  
28 would go settle this out in the back parking lot." WELDON implored Plaintiff to

1 “...say what he needed to say.” Plaintiff validated the same reports of unlawful  
2 and improper behavior by DEPARTMENT senior officers that he had relayed to  
3 ARMSTRONG several days earlier. Plaintiff and WELDON also discussed the  
4 sex abuse report. WELDON also told Plaintiff that the DEPARTMENT did what  
5 it had to do to try and push the “Measure P” campaign through and that he had  
6 heard on many occasions that Plaintiff was “...being vocal against the measure in  
7 open public forum.” WELDON said, “If you and some of the others would have  
8 helped out more we could have won it” and called Plaintiff a “malcontent.”  
9 Plaintiff replied he was properly voicing the concerns of EMPOA membership.  
10 WELDON also warned Plaintiff that he “...had better learn to get along with  
11 SANTOS.”

12 53. In November 2006, Plaintiff was nominated by the general  
13 membership as “Officer of the Year” and received such award in December 2006.

14 54. On January 1, 2007, Plaintiff and other officers were elected to the  
15 EMPOA Board; Plaintiff was appointed Treasurer. Upon information and belief,  
16 Plaintiff and the newly appointed members were deemed to be “anti-  
17 administration” by the DEPARTMENT.

18 55. On January 20, 2007, the audit was completed and the findings were  
19 not consistent with prior statements by CITY management and DEPARTMENT  
20 administrators: the audit found no deficit but instead found that millions of dollars  
21 had been located in multiple redevelopment accounts. The audit also found a  
22 pattern and practice of poor financial planning and lack of accountability for  
23 retrieving funds by CITY.

24 56. In February 2007, ARMSTRONG attended the Board and  
25 Administration EMPOA meeting. Among the concerns raised by the EMPOA  
26 membership were, *inter alia*, the upcoming audit results and possible use of  
27 recently acquired GPS equipment for disciplinary purposes against EMPOA  
28



1 members. ARMSTRONG indicated that the GPS system was solely going to be  
2 used for "officer safety only" and not a disciplinary tool by supervisors.

3 57. In late April 2007, HERNANDEZ initiated a baseless Internal Affairs  
4 investigation of Plaintiff for allegedly "sleeping on duty." HERNANDEZ,  
5 ROACH and BUEHLER began surveiling Plaintiff every night during Plaintiff's  
6 graveyard shift. Plaintiff was completely ignorant of such Internal Affairs  
7 investigation at that time, and did not learn of it until approximately September 10,  
8 2007.

9 58. On or about July 1, 2007, Plaintiff placed in "Band 1" for upcoming  
10 open Lieutenant positions during Departmental promotional testing.

11  
12 **IV. FACTS REGARDING ADVERSE EMPLOYMENT ACTION**  
13 **SUFFERED BY PLAINTIFF**

14 59. On September 10, 2007, ROACH ordered Plaintiff to surrender his  
15 Department-issued cell phone and informed Plaintiff that he was the focus of an  
16 upcoming Internal Affairs investigation. ROACH also informed Plaintiff that the  
17 DEPARTMENT would be conducting a search of Plaintiff's locker. Even though  
18 Plaintiff asked ROACH to inform him of the nature of the Internal Affairs  
19 investigation or the reason for the locker search, ROACH refused to answer him.  
20

21 60. On or about September 13, 2007, after a meeting with SCHUSTER  
22 and ROACH, Plaintiff was placed on paid administrative leave. Plaintiff again  
23 requested information concerning the nature of the Internal Affairs investigation or  
24 the reason for the locker search and was again denied such information.

25 61. Despite Plaintiff's repeated requests for information, it was not until  
26 November 2007 that the DEPARTMENT informed Plaintiff of the allegations  
27 against him. They included baseless and retaliatory charges against him,  
28

1 including, *inter alia*, sleeping on duty, early departure of duty times, playing  
2 baseball, and conduct unbecoming a police officer.

3 62. On or about January 8, 2008, Plaintiff was removed from duty  
4 pending an MRI of his lower back.

5 63. On or about February 6, 2008, Plaintiff was given a notice of "Intent  
6 to Terminate" and a *Skelly* package from Lieutenant Dan Buehler and Sergeant  
7 Steve Reneer while he was at Methodist Hospital. Plaintiff noted that the  
8 documents he and his attorney had previously and oft requested were not included.  
9 Plaintiff complained about this refusal and explained that if and when these  
10 documents were provided, he would be able to defend against the  
11 DEPARTMENT'S baseless accusations. WELDON and ARMSTRONG informed  
12 Plaintiff that they would look into the matter further before reaching any type of  
13 decision. Upon informational and belief they still refuse to do so.

14 64. On or about March 13, 2008, Plaintiff's attorney, Andrew M.  
15 Dawson, Esq. was contacted by an attorney representing himself to be working on  
16 CITY Attorney's behalf, Greg Palmer, Esq.

17 65. Upon information and belief, Palmer is employed by the law firm  
18 Jones & Mayer of Fullerton, CA in Orange County. Also, upon information and  
19 belief, Clarke Moseley, as El Monte City Attorney, delegated Palmer to represent  
20 the interests of CITY and the DEPARTMENT in negotiating with Plaintiff .  
21

22 66. On or about March 13, 2008, Palmer, as an employee and/or agent on  
23 behalf of CITY, made the following contractual offer to Plaintiff : Plaintiff would  
24 accept a medical retirement in lieu of any discipline arising out of his employment  
25 with CITY. Palmer informed Dawson that Plaintiff had until Monday, March 17,  
26 2008 to accept CITY 's offer.

27 67. On or about March 14, 2008, Plaintiff timely accepted CITY'S offer  
28 of medical retirement and relayed it to Palmer. Palmer then instructed Plaintiff to

1 contact ARMSTRONG to begin the medical retirement process. Plaintiff did as  
2 Palmer instructed. ARMSTRONG then instructed Plaintiff to obtain a "Permanent  
3 & Stationary" report from a doctor and told Plaintiff that he would mail him a  
4 PERS retirement packet along with an e-mail with information and further  
5 instructions. ARMSTRONG also told Plaintiff, "The medical retirement was not  
6 my idea and was offered by WELDON. I would have pursued the  
7 recommendation of Internal Affairs and proceeded with termination."

8 68. On or about March 26, 2008, after Plaintiff had accepted CITY's  
9 offer of medical retirement, ARMSTRONG informed Plaintiff that the medical  
10 retirement process was "...too lengthy and may take six to nine months."  
11 Armstrong purported to rescind CITY'S offer and told Plaintiff DEPARTMENT  
12 would proceed with his termination unless Plaintiff resigned. Plaintiff refused to  
13 resign.

14 69. On or about March 27, 2008, BUEHLER and Sergeant Reneer went to  
15 the Plaintiff's home and attempted to serve him with termination documents.  
16 Plaintiff gave BUEHLER a Notice of Appeal.

17 70. On or about April 15, 2008 Plaintiff was unlawfully terminated.

18 71. On or about September 25, 2008 Plaintiff timely submitted a Tort  
19 Claim concerning the aforementioned activities.

20 72. To date, Defendants have not responded to the Tort Claim, even  
21 though Plaintiffs submitted a query requesting they respond to same.

22 73. On or about March 13, 2008 Plaintiff timely submitted a Second Tort  
23 Claim concerning CITY'S bad faith failure and refusal to ensure that Plaintiff's  
24 PERS retirement was processed, a discovery Plaintiff became aware of on or about  
25 December 4, 2008.

26 74. To date, Defendants have not responded to the Second Tort Claim,  
27  
28

1           75. Plaintiff was not required to notify the California Labor Commission  
2 about his concerns. See Exhibit A.

3           76. Plaintiffs have complied with all other conditions precedent to the  
4 maintenance of this action.

5           77. Plaintiffs have no plain, speedy, nor adequate remedy at law to  
6 prevent future violations of their civil rights, and therefore seek extraordinary relief  
7 in the form of permanent injunctions, as hereafter described.

8  
9           **FIRST CAUSE OF ACTION FOR DISABILITY DISCRIMINATION**  
10           **CAL. GOVERNMENT CODE § 12940 (a)**  
11           ***AGAINST CITY ONLY***

12           78. Plaintiff hereby incorporates each and every preceding paragraph as  
13 though set forth in full here.

14           79. This action is brought pursuant to the California Fair Employment and  
15 Practices Act, §12940(a) of the Government Code, and the corresponding  
16 regulations of the California Fair Employment and Housing Commission, which  
17 prohibit discrimination against a person in the terms, conditions, or privileges of  
18 employment on the basis of the person's disability or medical condition. In doing  
19 the things alleged herein, Defendants have unlawfully discriminated against  
20 Plaintiff and taken adverse action against him because of his disability and medical  
21 condition, in violation of Government Code §12940(a). Plaintiff is a member of a  
22 protected category, was performing competently at his job, but was deprived of his  
23 right to a medical retirement because of discriminatory animus. Defendants'  
24 conduct was intentional and designed to deprive Plaintiff of the rights and  
25 privileges to which his position entitled him. Plaintiff's protected status was a  
26 pivotal factor in Defendant's decision to take adverse action against him.  
27  
28



1           80. In doing the things alleged herein, CITY further violated §12940(k)  
2 by failing to take all reasonable steps to prevent discrimination and harassment.

3           81. As a direct and proximate result of the Defendants' conduct, Plaintiff  
4 has suffered and continues to suffer substantial losses in income, earnings, and  
5 benefits and has been damaged in his capacity to earn his salary, serious injury to  
6 his person, and has also suffered pain and suffering.

7           82. The aforementioned acts directed towards the Plaintiff were carried  
8 out by managerial and supervisory employees, and were directed and ratified by  
9 Defendants, and each of them, with a conscious disregard of Plaintiff's rights and  
10 with the intent to vex, injure and annoy Plaintiff, such as to constitute oppression,  
11 fraud or malice. In addition, Plaintiff seeks injunctive relief against Defendants  
12 entitling him to all back pay and benefits, as well as a protective order against  
13 future discrimination and harassment.  
14

15  
16           **FIRST CAUSE OF ACTION FOR RALPH CIVIL RIGHTS ACT**

17           **CAL. CIVIL CODE § 51.7.**

18           ***AGAINST ALL DEFENDANTS***

19           83. Plaintiff repeats and re-alleges each and every allegation set forth  
20 above, and incorporates same by reference as though set forth fully herein.

21           84. California Civil Code §51.7(a) provides, in relevant part: All persons  
22 within the jurisdiction of this state have the right to be free from any violence, or  
23 intimidation by threat of violence, committed against their persons or property  
24 because of political affiliation, or . . . or position in a labor dispute, or because  
25 another person perceives them to have one or more of those characteristics. The  
26 identification in this subdivision of particular bases of discrimination is illustrative  
27 rather than restrictive.  
28

1           85. Liability may also be found where a defendant “aids, incites, or  
2 conspires” in the denial of a right protected under Civil Code §51.7. in violation of  
3 Civil Code §52(b).

4           86. Plaintiff is and was an active member of the EMPOA and is therefore  
5 a member of a group protected by Civil Code §51.7.

6           87. DEFENDANTS threatened or committed violent acts against Plaintiff  
7 and/or his property interest in his employment with CITY because of his protected  
8 status under Civil Code §51.7.

9           88. Motivating reasons for DEFENDANTS’ aforementioned conduct  
10 included, *inter alia*, was Defendants’ perception of Plaintiff’s political affiliation  
11 with and labor organizational, political and social activities as a member of the  
12 EMPOA, and his position in a labor dispute with CITY and his refusal to engage in  
13 systemic CITY police corruption.

14           89. Plaintiff was harmed by DEFENDANTS’ conduct.

15           90. DEFENDANTS’ conduct as aforementioned was a substantial factor  
16 in causing Plaintiff’s harm.

17           91. As a result of the conduct described herein, PLAINTIFF has and will  
18 sustain attorneys’ fees and costs in an amount according to proof.

19           92. The aforesaid acts directed towards Plaintiff were carried out with a  
20 conscious disregard of Plaintiff’s rights and with the intent to vex, injure, and  
21 annoy Plaintiff, such as to constitute oppression, fraud or malice pursuant to Cal.  
22 Civ. Code §3294, entitling Plaintiff to punitive damages against the non-municipal  
23 DEFENDANTS in a sum which is an amount appropriate to punish and set an  
24 example of the individual DEFENDANTS and to deter such conduct in the future,  
25 and to set an example for others.  
26  
27  
28

**SECOND CAUSE OF ACTION FOR BANE ACT VIOLATIONS**  
**CAL. CIVIL CODE § 52.1**  
**AGAINST ALL DEFENDANTS**

93. Plaintiff repeats and re-alleges each and every allegation set forth above, and incorporates same by reference as though set forth fully herein.

94. California Civil Code §52.1 (b) provides: Any individual whose exercise or enjoyment of rights secured by the Constitution or laws of the United States, or of rights secured by the Constitution or laws of this state, has been interfered with, or attempted to be interfered with, as described in subdivision (a), may institute and prosecute in his or her own name and on his or her own behalf a civil action for damages, including, but not limited to, damages under Section 52, injunctive relief, and other appropriate equitable relief to protect the peaceable exercise or enjoyment of the right or rights secured.

95. Plaintiff was an elected or appointed member of EMPOA and is therefore a member of a group protected by Civil Code §52.1.

96. DEFENDANTS interfered and/or attempted to interfere with Plaintiff's constitutional and statutory rights, including *inter alia*, the right to be free from unlawful retaliation, to participate in labor organizational, social and political activities, and to exercise his free speech rights without being targeted for retaliation by threatening or committing violent acts against his property interest.

97. Plaintiff reasonably believed that if he exercised his right to, *inter alia*, fully participate in the City of El Monte election process and to vote the way he desired therein, without DEFENDANTS undue and unlawful influence, DEFENDANTS would commit violence against him and/or his property interest right to public employment to prevent Plaintiff from exercising his rights as aforementioned or retaliate against Plaintiff for having exercised same.

98. Plaintiff was harmed by DEFENDANTS' aforementioned conduct.

1           99. DEFENDANTS' conduct was a substantial factor in causing  
2 Plaintiff's harm.

3           100. As a result of the conduct described herein, Plaintiff has and will  
4 sustain attorneys' fees and costs in an amount according to proof.

5           101. The aforesaid acts directed towards Plaintiff were carried out with a  
6 conscious disregard of Plaintiff's rights and with the intent to vex, injure, and  
7 annoy Plaintiff, such as to constitute oppression, fraud or malice pursuant to Cal.  
8 Civ. Code §3294, entitling Plaintiff to punitive damages against the non-municipal  
9 DEFENDANTS in a sum which is an amount appropriate to punish and set an  
10 example of the individual DEFENDANTS and to deter such conduct in the future,  
11 and to set an example for others.  
12

13                   **THIRD CAUSE OF ACTION FOR UNION-BUSTING**  
14                   **CAL. GOVT. CODE §§3302, 3309.5, 3502, 3506, 3508**  
15                   ***AGAINST ALL DEFENDANTS***

16           102. Plaintiff repeats and re-alleges each and every allegation set forth  
17 above, and incorporates same by reference as though set forth fully herein.

18           103. In doing the things alleged herein, DEFENDANTS violated Plaintiff's  
19 rights under Cal. Govt. Code §§3302, 3309.5 that prohibit a public safety employer  
20 from interfering with political activities of its public safety officers.

21           104. DEFENDANTS further violated Govt. Code §3502.1 by taking  
22 punitive action against Plaintiff for lawful union activity.

23           105. DEFENDANTS further violated Govt. Code §§3502, 3506 by  
24 interfering with, intimidating, restraining, coercing or discriminating against  
25 Plaintiffs because of their exercise of their lawful rights to form, join, and  
26 participate in employee organizations.  
27  
28



1           106. DEFENDANTS further violated Govt. Code §3508 by prohibiting  
2 Plaintiff from participating in employee organizations composed solely of peace  
3 officers.

4           107. Plaintiff was harmed by DEFENDANTS' aforementioned conduct.

5           108. DEFENDANTS' conduct was a substantial factor in causing  
6 Plaintiff's harm.

7           109. As a result of the conduct described herein, Plaintiff has and will  
8 sustain attorneys' fees and costs in an amount according to proof.

9           110. The aforesaid acts directed towards Plaintiff were carried out with a  
10 conscious disregard of Plaintiff's rights and with the intent to vex, injure, and  
11 annoy Plaintiff, such as to constitute oppression, fraud or malice pursuant to Cal.  
12 Civ. Code §3294, entitling Plaintiff to punitive damages against the non-municipal  
13 DEFENDANTS in a sum which is an amount appropriate to punish and set an  
14 example of the individual DEFENDANTS and to deter such conduct in the future,  
15 and to set an example for others.

16  
17           **FOURTH CAUSE OF ACTION FOR FREE SPEECH VIOLATIONS**  
18           **CALIFORNIA CONSTITUTION, ARTICLE I, §§2, 3,**  
19           ***AGAINST ALL DEFENDANTS***

20           111. Plaintiff repeats and re-alleges each and every allegation set forth  
21 above, and incorporates same by reference as though set forth fully herein.

22           112. In doing the things alleged herein, Defendants violated the rights of  
23 Plaintiff under the Cal. Const., Art. I, §§2, 3, by restraining Plaintiff's liberty of  
24 speech and assembly by taking adverse employment actions against Plaintiff solely  
25 in retaliation for engaging the aforementioned acts of free speech and assembly.

26           113. Plaintiff was harmed by DEFENDANTS' aforementioned conduct.  
27  
28

1 114. DEFENDANTS' conduct was a substantial factor in causing  
2 Plaintiff's harm.

3 115. As a result of the conduct described herein, Plaintiff has and will  
4 sustain attorneys' fees and costs in an amount according to proof.

5 116. The aforesaid acts directed towards Plaintiff were carried out with a  
6 conscious disregard of Plaintiff's rights and with the intent to vex, injure, and  
7 annoy Plaintiff, such as to constitute oppression, fraud or malice pursuant to Cal.  
8 Civ. Code §3294, entitling Plaintiff to punitive damages against the non-municipal  
9 DEFENDANTS in a sum which is an amount appropriate to punish and set an  
10 example of the individual DEFENDANTS and to deter such conduct in the future,  
11 and to set an example for others.

12  
13  
14 **FIFTH CAUSE OF ACTION FOR AMERICANS DISABILITIES ACT**  
15 **42 U.S.C. §1201, *et. seq.***  
16 ***AGAINST ALL DEFENDANTS***

17 117. Plaintiff repeats and re-alleges each and every allegation set forth  
18 above, and incorporates same by reference as though set forth fully herein.

19 118. In doing the things alleged herein, Defendants attempted to and did in  
20 fact interfere with Plaintiff's state and federal rights based on the federal  
21 constitution to be free from discrimination based on disability.

22 119. Plaintiff was harmed by DEFENDANTS' aforementioned conduct.

23 120. DEFENDANTS' conduct was a substantial factor in causing  
24 Plaintiff's harm.

25 121. As a result of the conduct described herein, Plaintiff has and will  
26 sustain attorneys' fees and costs in an amount according to proof.

27 122. The aforesaid acts directed towards Plaintiff were carried out with a  
28

conscious disregard of Plaintiff's rights and with the intent to vex, injure, and annoy Plaintiff, such as to constitute oppression, fraud or malice pursuant to Cal. Civ. Code §3294, entitling Plaintiff to punitive damages against the non-municipal DEFENDANTS in a sum which is an amount appropriate to punish and set an example of the individual DEFENDANTS and to deter such conduct in the future, and to set an example for others.

**SIXTH CAUSE OF ACTION CIVIL RIGHTS AND FREE SPEECH**  
**42 U.S.C. §1983**  
***AGAINST ALL DEFENDANTS***

123. Plaintiff hereby incorporates each and every preceding paragraph as though set forth in full here.

124. As a direct result of the Plaintiff exercising his constitutional right to free speech the Defendants took the aforementioned adverse actions against him. Absent said protected speech, Defendants would not have taken said actions. At all times mentioned herein, Plaintiff's speech activities were not taken pursuant to his official job responsibilities.

125. The various acts of intimidation, reprisal, retaliation, suppression and/or restraint exercised by Defendants against Plaintiff have created a chilling effect on his legitimate political, social and organizational speech by creating fear, hesitation, hostility and other destructive responses.

126. In doing the things alleged herein, Defendants, and each of them, violated the rights of Plaintiff under the First and Fourteenth Amendments to the United States Constitution to free expression. Specifically, Defendants have taken adverse action against Plaintiff in direct retaliation for, and in response to the various protected activities of Plaintiffs. The acts and omissions of Defendants, and each of them, were done by Defendants under color of state law in their

1 capacity as a municipality chartered under state law, and as policy making  
2 authorities to which Defendant City of El Monte delegated its governing powers in  
3 the subject matter areas in which these policies were promulgated or decisions  
4 taken or customs and practices followed. CITY'S official policy makers took the  
5 acts and omissions described above as members charged with such responsibility.  
6 It was or should have been plainly obvious to any reasonable policy making  
7 official of CITY that the acts and omissions of Defendants as alleged herein,  
8 taking singly or in conjunction, directly violated and continued to violate Plaintiff's  
9 clearly established constitutional and statutory rights. In doing the things alleged  
10 herein, Defendants acted with malicious intent to violate Plaintiffs' rights, or at  
11 least in conscious, reckless, and callous disregard of Plaintiff's rights and to the  
12 injurious consequences likely to result from a violation of said rights. General and  
13 special damages are sought according to proof. Punitive damages are sought  
14 against the individual defendant, according to proof.  
15

## 16 **XI. PRAYER**

17  
18 WHEREFORE, PLAINTIFF prays:

- 19 1. For general, special, compensatory (including lost wages and lost  
20 employee benefits), exemplary and punitive damages according to proof;
- 21 2. For costs of suit incurred herein, as allowed by law;
- 22 3. For reasonable attorneys' fees under 42 U.S.C. §1988, Cal. Civ. Code  
23 §3294, Cal. Civ. Code §52(b), Cal. Civ. Code §52.1(h) or as otherwise allowed by  
24 law;
- 25 4. For a civil penalty of \$25,000 pursuant to Civil Code §52;
- 26 5. For an award of interest, including prejudgment interest, at the legal  
27 rate, as allowed by law;  
28



1           6.     For injunctive relief; and

2           7.     For any and all other appropriate relief the Court deems necessary.

3  
4     Dated: March 22, 2010

Respectfully Submitted,

LACKIE, DAMMEIER & MCGILL APC

5  
6  
7     By: \_\_\_\_\_

Michael A. McGill, Esq.

Carolina Veronica Diaz, Esq.

*Attorneys For Plaintiff, Michael Providente*

**DEMAND FOR TRIAL BY JURY**


PLAINTIFF hereby demands a jury trial under F.R. Civ. P., Rule 38 and C.D.  
Cal. Rule 38.

Dated: March 22, 2010

Respectfully Submitted,

LACKIE, DAMMEIER & MCGILL APC

By:

  
Michael A. McGill, Esq.

Carolina Veronica Diaz, Esq.

*Attorneys for Plaintiff, Michael Providente*

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Dolly Gee and the assigned discovery Magistrate Judge is Ralph Zarefsky.

The case number on all documents filed with the Court should read as follows:

**CV10- 2200 DMG (RZx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

=====

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

☒ **Western Division**  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

☐ **Southern Division**  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

☐ **Eastern Division**  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

# UNITED STATES DISTRICT COURT

Central District of California

MICHAEL PROVIDENTE,

## SUMMONS IN A CIVIL CASE

V.

KEN WELDON, Individually and in his capacity  
as Chief of Police; TOM ARMSTRONG,  
Individually and in his capacity as the Assistant  
Chief of Police; STEVE SCHUSTER, Individually  
and in his capacity as a Police Captain; (Please see  
attachment)

CASE NUMBER:

CV 10-02200-DMG  
(RZ)

TO: (Name and address of Defendant)

To all the above named Defendants

**YOU ARE HEREBY SUMMONED** and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Carolina Veronica Diaz  
Michael A. McGill, SBN: 231613  
Lackie Dammeier & McGill, APC  
367 North Second Avenue  
Upland, CA 91786

an answer to the complaint which is served on you with this summons, within 21 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

*Jerry Najjar*

CLERK

*Manity Dam*

(By) DEPUTY CLERK

25 MAR 2010

DATE



AO 440 (Rev. 8/01) Summons in a Civil Action

| <b>RETURN OF SERVICE</b>   |          |       |
|--|----------|-------|
| Service of the Summons and complaint was made by me <sup>(1)</sup>   | DATE     |       |
| NAME OF SERVER ( <i>PRINT</i> )  | TITLE    |       |
| <i>Check one box below to indicate appropriate method of service</i>   |          |       |
| <input type="checkbox"/> Served personally upon the defendant. Place where served: _____<br>_____  |          |       |
| <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.<br>Name of person with whom the summons and complaint were left: _____  |          |       |
| <input type="checkbox"/> Returned unexecuted: _____<br>_____   |          |       |
| <input type="checkbox"/> Other (specify): _____<br>_____<br>_____  |          |       |
| <b>STATEMENT OF SERVICE FEES</b>   |          |       |
| TRAVEL   | SERVICES | TOTAL |
| <b>DECLARATION OF SERVER</b>   |          |       |
| <p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date _____ <i>Signature of Server</i> _____</p> <p style="text-align: center;">_____<br/><i>Address of Server</i></p> |          |       |

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

SUM-200(A)

|   |              |
|---|--------------|
| SHORT TITLE:<br>Providente v. City of El Monte et al. | CASE NUMBER: |
|---|--------------|

**INSTRUCTIONS FOR USE**

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons.
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

**List additional parties** (Check only one box. Use a separate page for each type of party.):

☐ Plaintiff
 ☒ Defendant
 ☐ Cross-Complainant
 ☐ Cross-Defendant

CRAIG SPERRY, individually and in his capacity as a Police Captain; SANTOS HERNANDEZ, individually and in his capacity as a Police Lieutenant; MARTY PENNEY, individually and in his capacity as a Police Lieutenant; Lieutenant ROBERT ROACH, , individually and in his capacity as a Police Lieutenant and DOES 1 THROUGH 10 INCLUSIVE;

Page 2 of 2

Page 1 of 1

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET

|  |   |
|--|---|
| <b>I (a) PLAINTIFFS</b> (Check box if you are representing yourself <input type="checkbox"/><br>Michael Providence   | <b>DEFENDANTS</b><br>Ken Weidon, individually and in his capacity as Chief of Police; Tom Armstrong, Individually and in his capacity as the Assistant Chief of Police; (Please See attachment) |
| <b>(b) County of Residence of First Listed Plaintiff</b> (Except in U.S. Plaintiff Cases):<br>Los Angeles County   | <b>County of Residence of First Listed Defendant</b> (In U.S. Plaintiff Cases Only):<br>Los Angeles County  |
| <b>(c) Attorneys</b> (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)<br>Carolina Veronica Diaz, Esq,<br>Lackie Dammeier McGill, APC<br>367 N. Second Avenue<br>Upland, CA 91786 | <b>Attorneys</b> (If Known)   |

**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- ☐ 1 U.S. Government Plaintiff     ☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 2 U.S. Government Defendant     ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only**  
(Place an X in one box for plaintiff and one for defendant.)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. ORIGIN** (Place an X in one box only.)

- ☒ 1 Original Proceeding    
 ☐ 2 Removed from State Court    
 ☐ 3 Remanded from Appellate Court    
 ☐ 4 Reinstated or Reopened    
 ☐ 5 Transferred from another district (specify):    
 ☐ 6 Multi-District Litigation    
 ☐ 7 Appeal to District Judge from Magistrate Judge

**V. REQUESTED IN COMPLAINT:** JURY DEMAND: ☒ Yes   ☐ No (Check 'Yes' only if demanded in complaint.)

**CLASS ACTION under F.R.C.P. 23:** ☐ Yes   ☒ No

**MONEY DEMANDED IN COMPLAINT:** \$ \_\_\_\_\_

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 42 U.S.C. Section 1201, et seq.

**VII. NATURE OF SUIT** (Place an X in one box only.)

| OTHER STATUTES  | CONTRACT  | TORTS  | TORTS  | PRISONER  | LABOR   |
|---|---|--|--|---|---|
| <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce/ICC Rates/etc.<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities /Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Act<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Info. Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes | <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise<br><div style="text-align: center;"><b>REAL PROPERTY</b></div> <input type="checkbox"/> 210 Land Condemnation<br><input type="checkbox"/> 220 Foreclosure<br><input type="checkbox"/> 230 Rent Lease & Ejectment<br><input type="checkbox"/> 240 Torts to Land<br><input type="checkbox"/> 245 Tort Product Liability<br><input type="checkbox"/> 290 All Other Real Property | <div style="text-align: center;"><b>PERSONAL INJURY</b></div> <input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Fed. Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><input type="checkbox"/> 362 Personal Injury-Med Malpractice<br><input type="checkbox"/> 365 Personal Injury-Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability | <div style="text-align: center;"><b>PERSONAL PROPERTY</b></div> <input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability<br><div style="text-align: center;"><b>BANKRUPTCY</b></div> <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><div style="text-align: center;"><b>CIVIL RIGHTS</b></div> <input type="checkbox"/> 441 Voting<br><input checked="" type="checkbox"/> 442 Employment<br><input type="checkbox"/> 443 Housing/Accommodations<br><input type="checkbox"/> 444 Welfare<br><input type="checkbox"/> 445 American with Disabilities - Employment<br><input type="checkbox"/> 446 American with Disabilities - Other<br><input type="checkbox"/> 440 Other Civil Rights | <div style="text-align: center;"><b>PETITIONS</b></div> <input type="checkbox"/> 510 Motions to Vacate Sentence<br><input type="checkbox"/> 530 Habeas Corpus<br><input type="checkbox"/> 530 General<br><input type="checkbox"/> 535 Death Penalty<br><input type="checkbox"/> 540 Mandamus/Other<br><input type="checkbox"/> 550 Civil Rights<br><input type="checkbox"/> 555 Prison Condition<br><div style="text-align: center;"><b>FORFEITURE / PENALTY</b></div> <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs<br><input type="checkbox"/> 660 Occupational Safety /Health<br><input type="checkbox"/> 690 Other | <input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><div style="text-align: center;"><b>PROPERTY RIGHTS</b></div> <input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><div style="text-align: center;"><b>SOCIAL SECURITY</b></div> <input type="checkbox"/> 861 HIA (1395ff)<br><input type="checkbox"/> 862 Black Lung (923)<br><input type="checkbox"/> 863 DIWC/DIWW (405(g))<br><input type="checkbox"/> 864 SSID Title XVI<br><input type="checkbox"/> 865 RSI (405(g))<br><div style="text-align: center;"><b>FEDERAL TAX SUITS</b></div> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)<br><input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 |

**VIII(a). IDENTICAL CASES:** Has this action been previously filed and dismissed, remanded or closed? ☒ No   ☐ Yes

If yes, list case number(s):

**FOR OFFICE USE ONLY:** Case Number: **CV 10-02200**

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA**  
**CIVIL COVER SHEET**

**AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.**

**VIII(b). RELATED CASES:** Have any cases been previously filed that are related to the present case? ☐ No ☒ Yes

If yes, list case number(s): CV09-3327 DMG (JWJx)

**Civil cases are deemed related if a previously filed case and the present case:**

- (Check all boxes that apply) ☒ A. Arise from the same or closely related transactions, happenings, or events; or  
☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or  
☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or  
☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** List the California County, or State if other than California, in which **EACH** named plaintiff resides (Use an additional sheet if necessary)

- ☐ Check here if the U.S. government, its agencies or employees is a named plaintiff.  
 Los Angeles County

List the California County, or State if other than California, in which **EACH** named defendant resides. (Use an additional sheet if necessary).

- ☐ Check here if the U.S. government, its agencies or employees is a named defendant.  
 Los Angeles County

List the California County, or State if other than California, in which **EACH** claim arose. (Use an additional sheet if necessary)

**Note:** In land condemnation cases, use the location of the tract of land involved.  
 Los Angeles County

**X. SIGNATURE OF ATTORNEY (OR PRO PER):**  Date March 22, 2010

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action   |
|---------------------|--------------|--|
| 861                 | HIA          | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862                 | BL           | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)  |
| 863                 | DIWC         | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))   |
| 863                 | DIWW         | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))  |
| 864                 | SSID         | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.  |
| 865                 | RSI          | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))   |



SHORT TITLE:

Providente v. Ken Weldon et al

CASE NUMBER:

1 Attachment to Civil Cover Sheet

2 STEVE SCHUSTER, individually and in his capacity as a Police Captain; CRAIG SPERRY, individually  
 3 and in his capacity as a Police Captain; SANTOS HERNANDEZ, individually and in his capacity as a  
 4 Police Lieutenant; MARTY PENNEY, individually and in his capacity as a Police Lieutenant; Lieutenant  
 5 ROBERT ROACH, , individually and in his capacity as a Police Lieutenant and ROES 1 THROUGH 10  
 6 INCLUSIVE;

7 Defendants.  
 8  
 9  
 10  
 11  
 12  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

26 (Required for verified pleading) The items on this page stated on information and belief are (specify item numbers, **not** line  
 27 numbers):

This page may be used with any Judicial Council form or any other paper filed with the court.

Page 3